



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket No. USCG-2011-0348]

RIN 1625-AA01

Anchorage; Change to Cottonwood Island Anchorage, Columbia River, Oregon and Washington

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

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SUMMARY: The Coast Guard is revising the existing Cottonwood Island anchorage and establishing a new designated anchorage. The change is necessary to ensure that there are sufficient anchorage grounds on the Columbia River.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0348 and are available online by going to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder associated with this rulemaking. You may also visit the Docket Management Facility in room W12-140 on the ground floor of the Department of Transportation West Building 1200

New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail ENS Ian McPhillips, Waterways Management Division, Coast Guard MSU Portland; telephone 503-240-9319, e-mail msupdxwwm@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS            Department of Homeland Security

FR            Federal Register

NPRM          Notice of Proposed Rulemaking

A. Regulatory History and Information

On June 13, 2011, the Coast Guard published an NPRM proposing to increase the size of the Cottonwood Island Anchorage on the Columbia River (76 FR 34197). On May 23, 2012, the Coast Guard published a Supplemental NPRM revising that proposal in response to public comments (77 FR 30440). During the 30-day comment period on the Supplemental NPRM, the Coast Guard received eight comments on the proposed action. Seven of the comments were from various maritime stakeholders in the Lower Columbia River Basin and one of the comments was from the Mayor of the City of Prescott.

## B. Basis and Purpose

The Secretary of Homeland Security has delegated to the Coast Guard the authority to establish and regulate anchorage grounds in accordance with 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1. As currently established, the Coast Guard Captain of the Port Columbia River believes the size of the Cottonwood Island Anchorage is insufficient based on both the current demand for anchorage grounds and the forecasted growth of vessel traffic on the Columbia River. Sufficient anchorage area, both in number and size, is especially important in this area because of the unpredictable hazardous conditions of the Columbia River Bar, which at times prevents vessels from safely navigating downriver. This rule increases the size of the current Cottonwood Island Anchorage and creates a new anchorage on the Columbia River.

## C. Discussion of Comments, Changes, and the Final Rule

The Coast Guard received eight comments during the 30-day comment period on the Supplemental NPRM. Seven of the comments received were from maritime industry stakeholders in support of the action. The eighth comment, submitted on behalf of the City of Prescott, stated that the city was satisfied with the regulatory action. That comment also referenced emergency anchoring situations in areas outside

the anchorages established by this rule. This rule does not affect waters not designated as anchorages and, consequently, the ability of vessels to anchor in these areas outside the channel remains as it was before this rulemaking. Likewise, the Captain of the Port continues to possess the same authority to direct vessels to anchor under 33 CFR 160.111(c). However, the Coast Guard believes that the City's concerns over noise, vessel exhaust, and visual impact in emergency anchoring situations will be addressed by anchoring standards of care being developed in the Lower Columbia River Region Harbor Safety Plan and applied by the Columbia River Pilots under 33 CFR 110.228(b)(3).

After considering all comments submitted, the Coast Guard made no changes to the rule proposed in the Supplemental NPRM.

#### D. Regulatory Analyses

The Coast Guard developed this rule after considering numerous statutes and executive orders related to rulemaking. Below, we summarize our analyses based on these statutes or executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not

require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that Order. Modifying the existing anchorage and establishing a new anchorage area will not have any significant costs or impacts on maritime activities.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601-612, as amended) requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which might be small entities: the owners or operators of vessels operating in and around the anchorage areas established by this rule and the City of Prescott. This rule will not have a significant economic impact on vessel owners and operators because the

anchorage area is outside the channel and will not, therefore, affect vessel traffic patterns. This rule will not have a significant economic impact on the City of Prescott because the anchorages established by the rule are upriver and downriver of the city limits and because vessels anchoring at the anchorage will have little or no economic activity with the City of Prescott or its residents.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate,

or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on



the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

## 12. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

## 13. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling

procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(f), of the Instruction. This rule involves the extension of one anchorage and the establishment of another. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

#### List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

PART 110-ANCHORAGE REGULATIONS

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 110.228 by revising paragraph (a)(10) and adding paragraph (a)(11) to read as follows:

§ 110.228 Columbia River, Oregon and Washington.

(a) \* \* \*

(10) Cottonwood Island Anchorage. The waters of the Columbia River bounded by a line connecting the following points:

Latitude	Longitude
46°05'56.88" N	122°56'53.19" W
46°05'14.06" N	122°54'45.71" W
46°04'57.12" N	122°54'12.41" W
46°04'37.55" N	122°53'45.80" W
46°04'13.72" N	122°53'23.66" W
46°03'54.94" N	122°53'11.81" W
46°03'34.96" N	122°53'03.17" W
46°03'11.61" N	122°52'56.29" W
46°03'10.94" N	122°53'10.55" W
46°03'32.06" N	122°53'19.69" W
46°03'50.84" N	122°53'27.81" W
46°04'08.10" N	122°53'38.70" W
46°04'29.41" N	122°53'58.17" W
46°04'49.89" N	122°54'21.57" W
46°05'06.95" N	122°54'50.65" W
46°05'49.77" N	122°56'58.12" W

(11) Prescott Anchorage. The waters of the Columbia River  
bounded by a line connecting the following points:

Latitude	Longitude
46°02'47.01" N	122°52'53.90" W
46°02'26.32" N	122°52'51.89" W
46°02'25.92" N	122°53'00.38" W
46°02'46.54" N	122°53'03.87" W

\* \* \* \* \*

Dated	K. A. Taylor
August 1, 2012	Admiral, U.S. Coast Guard
	Commander, Thirteenth Coast Guard
	District

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